

# **BOARD OF PERSONNEL APPEALS**

## **MINUTES – JULY 24, 2008 MEETING**

### **PRESENT:**

Jack Holstrom, Presiding Officer  
Steve Johnson  
Alice Whiteman  
Robyn Rowe

### **STAFF ATTENDING:**

Marieke Beck, Board Attorney  
Tonya McCormack  
John Andrew  
Joe Maronick  
Vicki Knudsen

## **BOARD BUSINESS**

### **APPROVAL OF MINUTES:**

Only one Board member was present from the April 24, 2008 Board meeting, therefore, the approval was postponed to the September 18, 2008 meeting.

### **NEXT MEETING DATE:**

There is a Unit Determination case on appeal and scheduled for Oral Argument to be heard at the Labor Relations Conference on September 18, 2008. There is also a ULP on appeal pending a briefing schedule may or may not be heard at the same meeting.

### **PUBLIC COMMENTS (HOUSE BILL 94):**

No comments were received.

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## **ORAL ARGUMENT**

### **TRANSPORTATION GRIEVANCE NO. 2-2006**

### **JON S. WATSON VS MONTANA DEPARTMENT OF TRANSPORTATION**

Mary Ann Sutton, attorney for Jon S. Watson, and Susan Rebeck, attorney for Montana Department of Transportation, presented oral argument in person. The Board discussed the implications of 39-31-307 MCA on a declaration of impasse by the parties given the charge of the statute.

Member Reardon moved to affirm the recommended decision of the hearing officer on remand dated February 21, 2008. Member Audet seconded the motion. After discussion the motion failed with chair Joscelyn and members Dudley, Johnson and Audet voting nay and member Reardon voting aye.

After further discussion member Johnson moved to overturn the recommended decision of the hearing officer on remand dated February 21, 2008, and consider whether the Board should affirm the original recommended order of the hearing officer dated May 9, 2007. After further discussion member Johnson withdrew the original motion and with the concurrence of the Board offered a substitute motion that the Board overturn the recommended decision of the hearing officer on remand dated February 21, 2008 as the hearing officer misapprehended the Columbia Falls decision as the Board does not believe a sixth test is necessary to reach impasse. Member Dudley seconded the motion and after further discussion the motion passed unanimously.

The Board then went on to discuss the original decision of the hearing officer dated May 9, 2007. Member Johnson moved to affirm the original decision of the hearing officer. Member Dudley seconded the motion and the motion passed unanimously.

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#### **ATTORNEY COMMENTS:**

Marieke discussed possible rules revisions with the Board. In the area of a possible change to the timeframes used in unit determination member Reardon moved that the Board have staff review possible changes and offer them at the next meeting. Member Johnson seconded the motion. The motion passed unanimously.

On the question of possible rules revision to the section that addresses findings of no merit in unfair labor practice charges member Johnson moved that staff draft possible recommendations for discussion at the next Board meeting. The motion was seconded by member Reardon. The motion passed unanimously.

The Board next reviewed a proposed protocol between the Board of Personnel Appeals and the Federal Mediation and Conciliation Service. After discussing the issue and proposed protocol, member Audet moved to adopt the draft offered by Marieke. The motion was seconded by member Dudley. The motion passed unanimously.

#### **MISCELLANEOUS:**

None